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ABSTRACT

The first part of this document, designed for middle school students, describes the Rhode Island court system. A history of the court in Rhode Island, an explanation of courts and their jurisdictions, the jury, appointment and duties of judges, court personnel, and sentencing are explained. An appendix outlines the rights of crime victims, the accused and defendants, and those found guilty. The second part of the document is designed for middle school teachers and contains a collection of sample lessons, graphics, and class activities for use with the student text, "Your Court." It includes a glossary of legal terms, activities to help students learn about the Rhode Island courts, and suggestions for additional resources. (RJC)

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YOUR COURT

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How the Rhode Island Judiciary System Works

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YOUR COURT

How the Rhode Island Judiciary System Works

FIRST EDITION

Written and Edited by

Donald E. Leonard

Designed by
Colony Multimedia, Inc.

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Providence, Rhode Island 02908

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the R.I. Bar Association and the U.S. Department of Education

INTRODUCTION

Dear Students,

It is my pleasure to introduce to you a very important book *Your Court: How the Rhode Island Judiciary Works*. Whether it is by protecting the equal rights of all citizens, ensuring that children are cared for, helping families work out their differences, or maintaining a safer society by bringing people charged with [illegible]nes to a fair trial, the courts and the laws touch everyone.

I hope that by reading and talking about the criminal and civil courts that this will better prepare you to be an active participant in our very precious democracy.

You may someday come to court as a juror, a witness, or someone who needs our help—or maybe just to visit us and learn more. Whatever the reason I want you to know that the judges and staff applaud your desire to learn about the judiciary because the Rhode Island courts belong to all of us.

Good luck and best wishes for a successful year.

—Thomas F. Fay, *Chief Justice, Supreme Court of R.I.*

"...that this Court is under the most solemn obligation to execute the laws of the land..."

—James Varnum, *attorney*
from the trial of TREVETT v. WEEDEN
(R.I. 1794)

FOREWORD

This book is to give you, a student in middle school, an understanding of the Rhode Island court system. This court system is already part of your lives. As you mature, you will take more active roles in the court as a juror, as an employee of the court, or as an officer of the court, an attorney, or perhaps, even as a judge.

To the students, parents, teachers and court personnel who provided insight, ideas, and support with the content and format of this book, I offer a humble "Thank you."

—Donald E. Leonard

Donald Leonard has an A.B. from Brown, an M.A.T. from Rhode Island College and did his doctoral work at Boston University. He recently retired after 35 years as a teacher-counselor-administrator in the Providence and Cranston schools. Don was a James Madison Fellow at Indiana University, a participant in both the Jaworski Institute in Constitution and Law and in the NEH Seminar in Black Studies. He has been an LRE trainer for both the Constitutional Rights Foundation and NICEL, and is the author of several articles on Rhode Island history.

CONTENTS

HISTORY OF THE COURT IN RHODE ISLAND 1

THE COURTS AND THEIR JURISDICTIONS 4

- Rhode Island Supreme Court 5
- Superior Court 6
- District Court 7
- Family Court 8
- City and Town Courts 9
- The Federal Court 10

THE JURY 12

APPOINTMENT AND DUTIES OF JUDGES 15

THOSE WHO WORK IN THE COURTS 18

SENTENCING 22

APPENDIX

- Rights of Crime Victims in Rhode Island 24
- Rights of the Accused/Defendants 25
- Rights of Those Found Guilty 26

USEFUL INFORMATION

– Words that appear in all CAPITAL LETTERS in the text are key phrases that will help you to understand the R.I. court system. –

"...four judicious and skillful persons..."
were chosen by the General Assembly
and commissioned by the Governor
to be judges in the civil court of 1729.

—Amasa M. Eaton,
Development of Judicial System in Rhode Island, 1904

History of the Court in Rhode Island

In 1637 Rhode Island's first organized court was in Portsmouth. The judge was elected and worked closely with the officials of the town. Courts of magistrates and jurors began in Newport and Portsmouth in 1640. In 1647 courts in Providence and Warwick joined the other towns under a new CHARTER. These courts were called THE GENERAL COURT OF TRIALS, the beginning of our state SUPREME COURT.

In 1729 the Colony of Rhode Island was divided into counties. Each county had a criminal court with justices and a civil court. "...four judicious and skillful persons..." were chosen as judges by the General Assembly. They were made official by the Governor. For years the General Assembly not only selected the judges, but also changed the decisions of the courts, replaced judges and reviewed every case. This control of the courts lasted until 1856. In that year the case of TAYLOR v. PLACE took away the power of the General Assembly to "...review, revise or reverse..." the decisions of the courts.

The King Charles Charter of 1663 allowed the governor and other state officials to be elected members of the General Assembly and judges of the General Court of Trials. That court became our SUPERIOR COURT. From that court eventually came the SUPREME COURT OF RHODE ISLAND.

1

Charter—An orderly plan of governing a colony, state or country.
Magistrate—Another title for judge used in federal courts.

1636 Colony founded by Roger Williams. 1637 First colonial court in Portsmouth.

When the CONSTITUTION OF RHODE ISLAND was passed in 1842, the government of the state was organized into executive, legislative and judicial branches. Each branch has its own power and authority. This system allows for checks and balances to protect the citizens. No one branch is stronger than the others.

As part of the judicial system, in 1886 the General Assembly created 12 judicial districts in the state. In the court within each district a judge could decide on certain criminal and civil cases without a jury.

RHODE ISLAND JUVENILE COURT was established in 1944. For a long time before this court was established young people were tried as adults. Many were sent to prison. This court in 1961 became FAMILY COURT with the authority to deal with all matters concerning the family, including divorce. In this modern court the juvenile is not considered a criminal.

Today all of the courts of the state deal with more than 127,000 cases filed each year. Each judge has the responsibility of about 2,500 cases each year.

Constitution—The supreme law of the state and the framework of our state government.
Juvenile—A person under the age of 18.

1638 Portsmouth ordered whipping post and stocks

1639 Portsmouth erects a prison; first in colony

"The judicial power of this state shall be vested in one supreme court, and in such inferior courts as the general assembly may, from time to time, ordain and establish."

R.I. Constitution—*Article X, Sec. 1., 1842*

The Courts and Their Jurisdictions

The court system of Rhode Island has 4 courts. These courts are District, Family, Superior, and Supreme. These courts work together in a unified system. The Chief Justice of the SUPREME COURT is the head of all the courts. To help the Chief Justice in making the courts work effectively, the Justice appoints a STATE COURT ADMINISTRATOR.

The court system has 50 JUDGES and 4 special MASTERS to manage the cases in these courts. The judges are appointed to their positions in different ways. The R.I. SUPREME COURT JUSTICES are elected by the R.I. HOUSE AND SENATE meeting together. The justices hold their positions until they are replaced by a vote of the General Assembly. This happens when a judge retires or dies. The SUPERIOR, DISTRICT AND FAMILY COURT JUDGES are appointed by the GOVERNOR with the approval of the SENATE. They serve for life.

Judges have a variety of duties. They must decide whether or not EVIDENCE is obtained properly. Sometimes a judge may conduct a trial called a BENCH TRIAL. The judge must decide a case in the place of a jury. Judges also research the law, write decisions, have hearings before a trial begins. They also may teach courses in the law and speak to various groups about the courts and laws.

Master—An attorney who takes the place of a judge in certain types of cases.
Evidence—Objects linking a person to a crime, e.g. fingerprints.

1647 First charter with Bill of Rights 1663 King Charles Charter—A Lively Experiment

RHODE ISLAND SUPREME COURT

The highest court of the Rhode Island court system is the R.I. SUPREME COURT. This court has 4 ASSOCIATE JUSTICES and a CHIEF JUSTICE. To this court come APPEALS on decisions made in the other courts in the state. This is the final step in the appeals process. There is, however, a possible appeal to the United States Supreme Court.

When the General Assembly requests an opinion on whether or not a law is constitutional under the R.I. Constitution, the R.I. Supreme Court decides. Also the court administers the process for admitting lawyers to practice law and disciplines lawyers and judges who do not follow the rules of the court.

Bench—The place from which a judge gives a verdict or legal opinion.
Appeals—When a person believes a court decision was not correct, he may ask a higher court for a new trial.

1729 County courts created. 1747 Assembly Act established Supreme Court of Judicature, Court of Assize, and general jail delivery.

SUPERIOR COURT

This court has a PRESIDING JUSTICE, 20 ASSOCIATE JUSTICES, and one MASTER. Judges in this court hear these types of cases:

a. All civil claims for amounts over $5,000.
b. All serious crimes called FELONIES.
c. All MISDEMEANOR appeals for less serious crimes.
d. GRAND JURY INDICTMENTS, when a jury decides that a person may be tried for a serious crime.
e. All appeals from district, municipal and probate courts, when a person feels that he has been wrongly or unfairly tried and judged.

Located in 4 different counties: Providence/Bristol, Kent, Newport and Washington, these courts have trials decided by a judge or jury.

The Superior Court also has an ARBITRATION program. This program helps to decide civil cases involving less that $50,000. Such cases may involve personal injury claims, property damage, automobile accidents and some ASSAULT and BATTERY cases. In order to save time and money, a court trained attorney examines the evidence. This person makes a decision usually within 10 days. This process does not need a trial.

Assault—One person threatens another.
Battery—When one person touches another without permission.

1776 General Assembly renounces King of England

1790 No political officer may also be on [illegible] court. R.I. ratifies U.S. Constitution

DISTRICT COURT

The DISTRICT COURT is the entrance to the court system for Rhode Islanders. A CHIEF JUDGE, 12 ASSOCIATE JUSTICES, and a MASTER in District Court decide on many kinds of cases. Such cases include less serious felonies, first appearances on FELONY charges, and civil actions in amounts to $5,000. The District Court does not have jury trials.

The 4 District Courts may also settle claims. The Court also has responsibilities to punish persons for housing code violations. It may hear appeals from other state agencies, such as the Registry of Motor Vehicles. The Court can also place persons suffering from alcohol, drug, and mental problems into a hospital.

SMALL CLAIMS COURT is part of the District Court. The citizen may file a case against another person for up to $1,500. A lawyer is not needed in this court. The clerk of the court provides the necessary forms. The purpose of this process is to receive an inexpensive and speedy judgment by the court.

Jurisdiction—One court may make decisions for one type of crime or for one area of the state.
Violation—A breaking of a law (in housing, for example, a landlord must have proper plumbing in a house, if not, there is a violation).

1827 By law judges are to instruct jurors in the law. 1842 Dorr Rebellion. RI Constitution.

FAMILY COURT

The CHIEF JUDGE, 10 ASSOCIATE JUSTICES, and 2 MASTERS decide on cases such as: divorce, alimony, custody and support of children, adoptions, paternity suits, and child marriages. The court also judges cases with wayward, DELINQUENT, neglected, abused, and mentally handicapped children.

Sometimes problems arise when parents are divorced or separated. Which parent should keep the child? When may the other parent visit the child? The court will help to decide these problems.

A youngster is not considered a criminal in this court. In a case, however, that a youngster has committed a crime, the judge has several possible ways of helping the juvenile to change and become a more positive, productive citizen. These may include drug-free programs, halfway houses and group living or time in the TRAINING SCHOOL.

Delinquent—A youngster who is not obeying the laws of the community or the rules of the parent.

Training School—A place where a young person is kept under close supervision for a period of time.

1849 RI v. MA—Case of land dispute ends after 15 years; both sides win. 1856 Taylor v. Place—Legislature not to control courts.

CITY AND TOWN COURTS

MUNICIPAL COURT in each city and town decides on violations of city laws. Usually such cases might include parking tickets, traffic violations, or minimum housing violations, such as bad plumbing or fire hazards.

PROBATE COURT decides on what will happen to a person's possessions, or ESTATE, at death. If a person dies without leaving a WILL, the court will distribute the money, property, etc., according to the law. If a person has a will, the court will distribute the property as the person wishes. The court also hears arguments from persons who object to the conditions of a will. The court decides whether or not to accept the objections.

WORKERS COMPENSATION COURT decides on cases when a person claims to have been injured on the job. Both the employer and the employee will be heard before a decision is made.

Estate—The possessions a person leaves upon death.
Compensation—Money given to a person who has been injured or who has become sick while working.

1886 Legislature sets up 12 District Courts with judges.

1895 Judiciary Act—County court jurisdiction to Supreme Court.

THE FEDERAL COURT

The Congress of the United States has established 94 U.S. District Courts to operate throughout the country. These courts have jurisdiction over federal crimes, such as smuggling, counterfeiting, interstate traffic in drugs and stolen goods, kidnapping and mail fraud. Here in Rhode Island there are federal MAGISTRATES, a U.S. District Court, and a U.S. BANKRUPTCY Court. A U.S. CIRCUIT COURT OF APPEALS for New England is in Boston. One of 13 in the country, it has jurisdiction in this district. It judges cases which have been appealed from a lower federal court.

The U.S. SUPREME COURT makes decisions on cases which are appealed to it either through the U.S. Circuit Courts or sometimes from the Supreme Courts of the various states.

Bankruptcy—A person or business that cannot pay bills is taken under the protection of the court.

Federal—Any aspect of the government in Washington.

1905 Comprehensive Court & Practice's Act—Superior and Supreme Court split into trial and appeals functions.

1933 Providence County Courthouse built.

"...the trial by jury is a fundamental, a constitutional right—ever claimed as such—ever ratified as such—ever held most dear and sacred..."

James Varnum, *attorney*
from the trial of TREVETT v. WEEDEN (R.I. 1786)

The Jury

Every 2 weeks each year approximately 100 citizens are chosen to serve on a GRAND JURY or a PETIT JURY. A juror is citizen over the age of 18. Those chosen to serve are also voters in the state. These citizens as part of their responsibility to the state give 2 weeks of service on a petit jury or possibly several months on a grand jury.

During this service a juror may be selected for one or more trials or not selected at all. Having a number of jurors available is most important. There are many trials each year. There is a need to have a large group of jurors to provide the 14 jurors needed for a criminal case and the 8 needed for a civil case. (Before the jury goes into a private room to decide on its verdict, the number of jurors will be reduced to 12 for a criminal trial and 6 for civil trial.)

Petit Jury—Jury which decides on most criminal and civil cases.
Grand Jury—A group of citizens who decide if a person should be charged with a crime and brought to trial.

1935 Republican domination (since 1858) of Supreme Court ends. 1944 R.I. Juvenile Court created

The jury is responsible to listen carefully to all evidence and TESTIMONY given during the trial. The verdict of the jury is based on the evidence, the testimony and the law regarding the case which is explained by the judge. In certain cases before a jury, cases involving a felony, a jury might be required to be sequestered. To SEQUESTER a jury means to put the jury into a secure location until a verdict can be reached. This process may mean that jurors are away from home for a period of time.

The jurors are reminded by the judge and attorneys at times in the trial that they are to reach a verdict based on the evidence. They are also reminded that they reach that verdict because the defendant has been proven guilty beyond a reasonable doubt. Finally as is stated in the JUROR'S CREED, the jurors are reminded that today they are passing on the rights of others, but that tomorrow they may be the defendants in a case.

Testimony—Statements by a person under oath in a court.

"I do solemnly swear...that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all duties incumbent on me..."

Court and Practices Act—*January, 1905*

Appointment and Duties of Judges

In the very early days of the COLONY a member of a town government would probably also be a judge. One of the first such judges was Roger Williams. He did sit in the town meeting to help decide on several cases involving problems in Providence and the Colony.

Today Supreme Court justices are elected by the House of Representatives and Senate of the GENERAL ASSEMBLY when they meet as one body. Persons are nominated; then their qualifications are examined by a special committee. Finally the House and Senate vote to choose the justice. The justices are in the court until the General Assembly declares the seat vacant. This may be done when a justice retires or dies while serving in the court.

The Governor with the consent of the Senate appoints judges to the Superior, District, and Family Courts. These judges serve for life. Because of the importance of the position, the background and qualifications of each person who is a candidate for the position of judge are carefully examined.

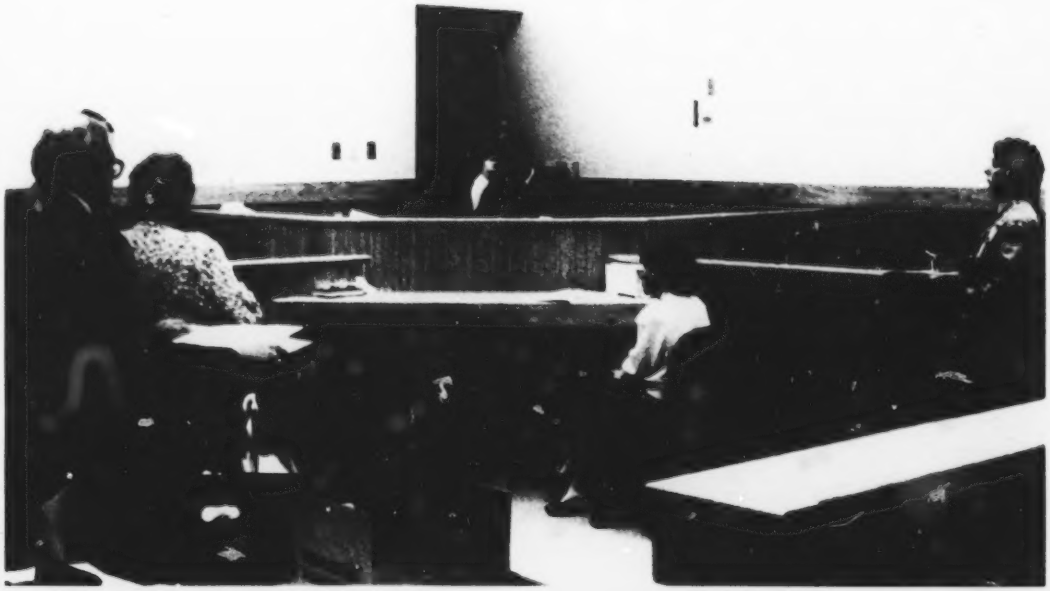
Colony—Before becoming a state, R.I. was governed by the King of England and Parliament.
General Assembly—The Legislature which has a Senate and a House of Representatives. These men and women make the laws which govern our lives.

1969 Court Reorganization Act—United three level court system, Chief Justice of Supreme Court as Head.

Once appointed to the bench, judges have many duties and responsibilities. A judge may rule on evidence. The judge must decide if the evidence has been legally obtained and if it should be admitted to the trial. The judge must rule on POINTS OF LAW in the arguments and questioning by the attorneys. Judges will also meet with attorneys, plaintiffs and defendants before the trial begins to discuss the case. A judge may also meet with these persons to determine if the case might be settled without going to trial. Trials can be very lengthy and very expensive. These meetings might settle a case without a trial. The judge must also RESEARCH the laws involved in the case and then, if no jury is involved, must give a decision. If there is a jury the judge will sentence the person found guilty by the jury.

Points of Law—Statements in the law which need to be studied and made clear.
Research—Read all materials written on a certain subject.

1976 Decisions of Superior Court on violations are final by law. District Court decides on sending persons with mental and drug problems to hospital.



"It is for the enlightened Rhode Islander...to hold fast to...Rhode Island law and tradition, and... instructed by history...to develop whatever is excellent in it, to improve the faulty, to prune away the obsolete and harmful, and...to enlarge and enrich it with ideas and institutions of a better civilization."

—Sydney Rider, *Judicial History of Rhode Island, 1894*

Those Who Work in the Courts

THE ATTORNEYS

Those men and women who attempt to prove the person on trial guilty or innocent are called lawyers or ATTORNEYS. If an attorney is PROSECUTING a criminal case, that is trying to prove the defendant guilty, that attorney is usually an attorney general. In a civil case that person might be an attorney general or an attorney. The ATTORNEY GENERAL is the person who prosecutes as the chief law enforcement person elected by the people of the state.

The person who defends the person on trial may be a lawyer called a public defender. A PUBLIC DEFENDER is a lawyer who works for the state and is APPOINTED by the Governor. These Public Defenders are in court as lawyers for persons who have little or no money.

CLERK OF THE COURT

The person who is responsible to assist each judge in maintaining the records of each case is the CLERK OF THE COURT. This person swears in witnesses and is responsible for security for all evidence in a case.

Prosecutor—An attorney who attempts to prove a person guilty. This person is an Assistant Attorney General.

Appointed—Put into office by the Governor or Legislature.

1981 Lynch v. Donnelly—Case on Christmas displays on public property appealed to U.S. Supreme Court.

THE SHERIFFS

Those men and women in uniform who enforce the judge's rules about the operation of the court room are SHERIFFS. They also ESCORT prisoners within the court house area. These officers also provide for the security of the courtroom by being sure that no person may bring a camera, recorder or weapon of any kind into the court.

THE COURT REPORTER

The person sitting next to the clerk and in front of the judge in each court room is the COURT REPORTER. This person uses a special typing machine to put down each word said by the judge, attorneys, and witnesses throughout the trial. The speed that this person types each comment or conversation is well over 200 words a minute. After a court session each day, the reporter types a copy of the testimony of the day. This is the written record of each trial, the transcript.

Escort—To take a person from place to place.
Testimony—Statements made by witnesses, police, defendants, and plaintiffs.

1992 [illegible]

TRANSLATOR

Since the courts each day have witnesses, defendants and plaintiffs who speak many languages other than English, the court system has provided TRANSLATORS. These are people who speak languages other than English to help in the court. These persons provide a very important service to be certain that justice is applied equally to all people.

COURT ADMINISTRATOR

In order that the courts are scheduled properly and receive sufficient state money to operate effectively, there is a COURT ADMINISTRATOR. For the 50 judges and many buildings, this Administrator prepares a yearly budget and manages the court buildings. The administrator also provides educational programs for the public and court personnel. In addition the administrator has charge of personnel and buying supplies needed by the courts.

"...no person, in this Colonie, shall be taken or imprisoned...or other otherwise molested or destroyed...but by the Lawfull judgement of his Peeres, or by some known Law..."

First Charter of Rhode Island—*1647*

Sentencing

Various kinds of sentences may be given to those who are found guilty by the courts. The sentence imposed by the judge is based upon how severe the crime is, any previous criminal record of the defendant, and the laws affecting sentencing for a particular crime.

In the case of a juvenile a judge might put the youngster into the Training School, place the youth on probation or place the youngster into a program which would help the youngster to become a better citizen.

In adult cases the judge might postpone a sentence, postpone prosecution, use probation or may place the accused into the Adult Correctional Institution. In the case of someone who has not committed a crime previously and who has not committed a serious crime, the judge might postpone the sentencing. This means that the judge is allowing the person to prove over a period of time, up to 5 years, that the person can live within the law. In every case the judge takes many facts into consideration before sentencing the convicted person. Each case is examined as an individual situation.

22

Criminal Record—Each person over the age of 18 who commits a crime has that crime listed with the police.

Individual Situation—A judge tries to know about a person's background in the community, work habits, and family before making a judgment about sentencing.

**"...seeking to find and
follow the silver thread of truth...
I must lay aside all bias and prejudice..."**

The Juror's Creed—Jury Service
A Handbook of Information for Petit Jurors, 1991

RIGHTS OF CRIME VICTIMS IN RHODE ISLAND

Under Rhode Island PUBLIC LAW judges and the courts uphold the RIGHTS of crime VICTIMS. If you are a victim, you have these rights:

1. You will be told what is happening in the criminal investigation.
2. You will be told when the criminal is to be charged.
3. You will be protected from threats and harm.
4. You will be told when you should be in court.
5. You will be guarded when you are in court.
6. You will be told amounts of money that may be paid to a witness.
7. You will receive help in explaining to your employer why you must be in court.
8. Your personal property will be returned when it is no longer needed as evidence.
9. You will be told how social agencies may help you with money and other problems created by the trial.
10. You may tell the court about the effect of the crime on you. You may do this before a person is sentenced for committing the crime.
11. You may speak to the court before sentencing.
12. You will be told of the outcome of the trial.
13. You will be told when the defendant is released by the court, the police, and the prison.
14. You may write to the court about the effects of the crime on you and your family. This statement may be presented to the court before any action of the court on a request by the defendant. (A request for dismissal of charges or a reduced sentence.)

Defendant—The person accused of a crime.
Charged—Judge tells a person he has committed a crime.

RIGHTS OF THE ACCUSED/DEFENDANTS

Under the United States and Rhode Island Constitutions everyone has rights in the courts. The accused person, the DEFENDANT, has rights also. The Constitution reminds us that everyone is innocent until proven guilty. The person on trial then must have his/her rights protected and must be given a fair trial. If you were a defendant in a trial, your rights would be:

1. You may remain silent.
2. You may speak to the court in your own defense.
3. You may select an attorney to defend you.
4. You may be represented by a court appointed attorney, a PUBLIC DEFENDER, if you cannot afford an attorney.
5. You have a right to a fair and speedy trial by judge or by jury.
6. You may ask for a new trial, if you are found guilty of a crime.
7. You are innocent until you are proven guilty. You must be found guilty BEYOND A REASONABLE DOUBT.
8. You are not required to prove your innocence. The person accusing you must prove your guilt.
9. You may question/CROSS EXAMINE any person who testifies against you.
10. You may bring in any witness you want. The judge may order any witness to appear in court.

Beyond a Reasonable Doubt—When evidence and testimony clearly prove a person's guilt.
Presumed—When a person is seen by the court as innocent, until evidence and testimony prove guilt.

RIGHTS OF THOSE FOUND GUILTY

If you are found guilty of a crime, you have these rights:

1. You may make a statement or present additional evidence to the court so that you might be given PROBATION, time you do not spend in jail, a lesser sentence or a smaller fine.
2. You are to be given a fair and just sentence.

26

Probation—When a person is allowed to live outside of prison even though convicted of a crime. Such a person must report to a counselor during probation so that the court knows that the person lives within the law.

USEFUL INFORMATION

SUPREME COURT

Thomas F. Fay, *Chief Justice*

299 Benefit Street, Providence, RI—277-3266

Crime Victim Compensation Program—277-2500

State Court Administrator—277-3263

Supreme Court Clerk—277-3272

State Court Library—277-3275

Victim Restitution Unit—277-2923

SUPERIOR COURT

Joseph F. Rodgers, Jr., *Presiding Justice*

Kent County, 222 Quaker Lane, Warwick, RI—822-1311

Newport County, Washington Square, Newport, RI—841-8330

Providence/Bristol Counties, 250 Benefit Street, Providence, RI—277-3250

Washington County, 4800 Tower Hill Road, Wakefield, RI—782-4121

FAMILY COURT

Jeremiah S. Jeremiah, Jr., *Chief Judge*

Kent County, 222 Quaker Lane, Warwick, RI—822-1600

Newport County, Washington Square, Newport, RI—841-8340

Providence/Bristol Counties, 250 Benefit Street, Providence, RI—277-3334

Alcohol Counseling Unit—277-3337

CASA—277-6863

Domestic Relations—277-3340

Family Counseling Unit—277-3504

Juvenile Clerk—277-3352

Juvenile Intake Services—277-3345

Washington County, 4800 Tower Hill Road, Wakefield, RI—782-4111

DISTRICT COURT

Albert E. DeRobbio, *Chief Judge*

Kent County, 222 Quaker Lane, Warwick, RI—822-1771

Newport County, Washington Square, Newport, RI—841-8350

Providence/Bristol Counties, 250 Benefit Street, Providence, RI—277-6710

Washington County, 4800 Tower Hill Road, Wakefield, RI—762-4131

TEACHER'S RESOURCE BOOK *for* YOUR COURT

INTRODUCTION

This collection of sample lessons, graphics and class activities is to help you use YOUR COURT effectively in your class. Because YOUR COURT was written for grades five through eight some of the activities may seem too sophisticated for your students while others, too elementary. By changing the language somewhat or by adjusting a situation slightly you will find that these activities can be used successfully.

At the request of colleagues, I have included Latin and French terms in the glossary. Additional terms will be determined by the lessons themselves.

The graphics (pages 6–11) can be copied for class exercises and activities giving a more pictorial framework to supplement the text.

Good teaching.

—Donald E. Leonard

TABLE OF CONTENTS

Glossary to Court and Legal Terms 1–2

Lesson on Supporting an Argument 3

Lesson on Jury Selection Process 4

Lesson to Understand Roles of Participants in a Trial 5

Graphics for Classroom Use:

Federal Court System 6

Appeal Process in the Rhode Island Court System 7

Process of Court Experience for a Felony 8

Steps in Family Court Experience of a Juvenile 9

Steps in a Trial 10

Unified Court System of Rhode Island 11

Activities to Help Students Learn About the R.I. Court System 12–18

Crossword Puzzle of Legal/Court Terms 19

Teacher's Key to Crossword Puzzle 20

Suggested Additional Resource Materials 21

GLOSSARY OF TERMS

LATIN TERMS:

HABEAS CORPUS—*we have the body*— action by court when person is being held illegally

CAVEAT EMPTOR—*let the buyer beware*—buyer should be careful in buying any product from any seller

MANDAMUS—order by court to government agency to perform a particular service for the citizens

AMICUS CURIA(E)—*friend of the court*—a person who is not connected to a case, but offers advice to court

PRO BONO—*for the good*—free advice given by lawyers

NOLO CONTENDERE—plea is neither guilty nor innocent, is, however, considered an admission of guilt

FRENCH TERMS:

VOIR DIRE—process by which lawyers seat people on jury by determining their biases, backgrounds, etc.

PETIT (PETTY) JURY—group of persons from the community who decide the guilt or innocence of a person accused of a crime

ENGLISH TERMS:

ACCESSORY—person who helps another commit a crime

ALIBI—an excuse for doing something or not doing something

APPEAL—when person tried feels trial was not fair or in error, person may ask higher court to hear case

APPELLATE COURT—court which hears appeals–in R.I., the Supreme Court

ARRAIGNMENT—when person is charged with a crime

BAIL—money or property promised to court if defendant runs away

BEYOND A REASONABLE DOUBT—jury must be completely convinced of person's innocence or guilt

BRIEF—written statement of case given to court by lawyer

CHILD ABUSE—when a person physically or verbally injures a child

CHILD NEGLECT—when a child is not given proper attention or supervision

CIRCUITS—in the federal court system an area of jurisdiction

CIVIL LAW—laws involving relationships between persons and businesses

CRIMINAL LAW—laws involving stealing from, harming or killing persons

COMPENSATE—give person money/property in payment for injury

CROSS-EXAMINATION—when lawyer may question a person who is in court for other side

DEFENDANT—one who has been accused of a crime

DISCOVERY—one side in a trial seeks information from the other

DUE PROCESS—laws which protect each person's rights to fair and equal treatment

EQUAL PROTECTION—all persons who go to court are treated fairly without regard to age, sex, race, etc.

ESTATE—money or property a person leaves at death

EXCLUSIONARY RULE—law which applies to evidence taken illegally

FELONY—a serious crime which is punishable by more than one year in jail; involves loss of citizenship rights

GRAND JURY—jury which hears evidence from attorney general and determines that a person should be brought to trial or released

HUNG JURY—jury which cannot reach an unanimous decision

CONTEMPT OF COURT—when someone is disciplined by the judge for not following the rules of the court

INDETERMINATE—sentence required by state law for a determined span of time (5 to 10 years)

INDICTMENT—for felonies when a grand jury decides that a person has violated the law

MISDEMEANOR—a crime for which the punishment is less than a year in jail

MOTION—request by a lawyer for a special ruling by the judge. For example, a postponement of a trial.

NATURALIZATION—the process by which a person becomes a citizen

PAROLE—when a person is released from prison and is assigned an officer of the court to supervise the person's life

PERSONAL RECOGNIZANCE—before a trial the defendant is released without bond on promise to return to court when required

PLAINTIFF—person bringing the lawsuit in a civil case, the state of RI in a criminal case

PLEA—defendant declares guilt or innocence when charged

PLEA BARGAINING—defendant agrees to plead guilty to a lesser charge, e.g., manslaughter rather than murder

PRECEDENT—an accepted court action which is accepted in later cases

PRE-SENTENCE REPORT—judge is given information on defendant's life, before judge sentences person

PROBATE—method of proving that a will is valid

PROBABLE CAUSE—basis on which police might search/arrest a person

PROBATION—when criminal is release into community under supervision of a probation officer

REASONABLE—action that is fair and proper under the circumstances

REHABILITATION—program to enable a person to live a crime free and/or drug free life

RESTITUTION—give victim payment for an injury or loss of property to enable person to live

SUE—to request the court to have a person pay you for an injury or property damage

TRAFFIC COURT—place a person pays a fine for speeding, etc.

WAIVE—voluntarily give up a right

WARRANT—paper from judge giving police right to search or arrest

WAYWARD—a juvenile who refuses to obey his parent or guardian

WRIT—an order of the court

LESSON ON SUPPORTING AN ARGUMENT

1. OBJECTIVE: Give students the opportunity to hear viewpoints of others and to express their own positions, in writing and vocally, on a particular problem. Help students support an argument.

2. SITUATION: There have been two recent airplane crashes; one in Rhode Island and the other in Massachusetts. The causes of the crashes have been linked to use of drugs by flight personnel. The Congress is planning to pass a law requiring drug testing of all pilots. The law will also require random testing of all flight personnel, co-pilots, flight attendants, as well as of airplane mechanics. Anyone who fails a test at any time will be fired immediately and reported to the local police for investigation.

3. STRATEGY: Have students write their positions on this issue on a continuum from UNQUALIFIED AGREEMENT to UNQUALIFIED DISAGREEMENT. Have them read their papers and discuss each others point of view. Select students to stand against the wall where you have posted or written the positions from one end to the other. Have these students express their opinions. Also suggest to students some adjustments in the law. For example, perhaps only pilots and co-pilots be tested or tests not be random, but be announced. Have students adjust their positions as they change their minds.

LESSON ON JURY SELECTION PROCESS

1. **OBJECTIVE:** Help students learn about the process of selecting jurors for a trial. Help students learn about the selection technique of VOIR DIRE. This technique enables a lawyer to question jurors. By this questioning the lawyer is able to determine which jurors should be selected.

2. **SITUATION:** WILLIAM BONNEY, a director of the ABC Credit Union has been charged with embezzling $400,000 from the Credit union. He has requested a full jury hear his case. He feels that he will be found not guilty before a jury of his peers. The money was taken out of a variety of accounts over a three year period. An investigation into his background revealed that over the same period his life style changed—he bought two expensive cars, a beach house—and that several accounts in his name have been opened in a variety of banks. He says that he can explain all of these.

3. **STRATEGY:** Have two-four students act as defense attorneys and two-four, act as prosecuting attorneys. Have them prepare appropriate questions for the following prospective jurors. Basic questions might include: "Do you or anyone in your family have money in the ABC Credit Union?" "Have you had money in a bank or credit union from which money has been embezzled?" After all jurors have been questioned each side will give reasons why the juror should stay or be dismissed. The class might then offer additional questions that might be asked and arguments in agreement or disagreement with those of the attorneys.

MAY EAST—married with two children, she has lived in another state. At that time she had her savings in a credit union which was robbed. She lost about one half of her savings.

SHAWN VAUGHN—single parent with one child who is a senior in high school. Shawn does not believe in credit unions; he feels that they are not safe.

GREG FORTUNE—an unemployed bank teller, he was fired for not following the regulations of the bank. He has only recently moved to Rhode Island. He is looking for work in a local bank or credit union.

JANE GREYSTONE—currently employed as a bank regulator for the state. She visits banks to inspect them and make sure that they are following all state regulations.

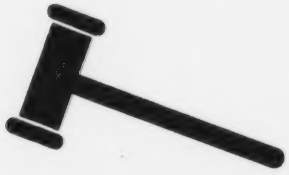
MOLLY COHEN—lost much of her savings in the RISDIC scandal of the early 1990's. She had her money in a local credit union. She is now in her early 60's and must keep working, because she cannot afford to retire.

LESSON TO UNDERSTAND
ROLES OF PARTICIPANTS IN A TRIAL

1. OBJECTIVE: Help students to understand the roles of judge, defendant, and plaintiff in a courtroom situation.

2. SITUATION: JOHN went to the HIP HOP MUSIC SHOP to buy a new CD by his favorite group. When he found the last CD available in the store, he noticed that the wrapping was torn. He decided that he wanted the CD, so he brought it to the clerk. He showed RUTH, the clerk, the torn wrapper. He asked if he could return the CD if it were defective. Ruth said that the store's policy was that once a CD package was opened the store would not replace it. She added, however, that she would exchange it herself, if John brought it back. John bought the CD. When he played it the next day, he realized that the CD was damaged and didn't play correctly. The next day he went to Boston to visit relatives for a few days. When John brought the damaged CD back to the Music Shop the following week, he was told that the policy of the store was not to replace the CD. He also found that Ruth didn't work there anymore. John is suing the Music Shop for the cost of the expensive CD, $38.00 plus tax. The owner of the store who reminded John of the policy is FRANK JAMES.

3. STRATEGY: Have one student play the role of John and one, that of Frank James. Each will have five minutes to prepare a statement to the JUDGE. The presentation to the judge will limited also to five minutes. The judge will NOT read the situation before hearing each of the statements. The judge may asked whatever questions are necessary. The judge will have to make a decision based on the statements made. When both presentations are made and all questions have been answered, the judge will announce the decision and the reasons for it to the class.



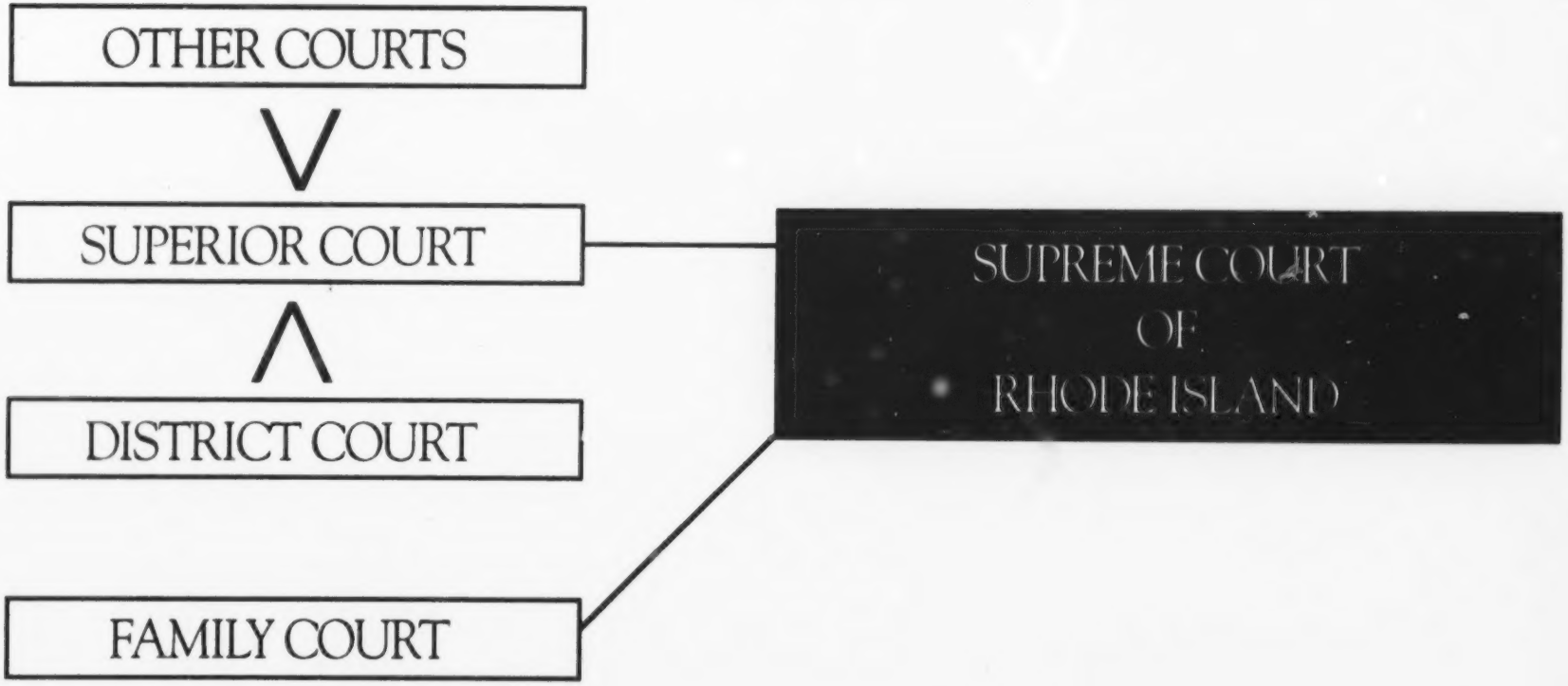
– FEDERAL COURT SYSTEM –

SUPREME COURT OF THE UNITED STATES

CIRCUIT COURTS OF APPEALS
(U.S. Circuit Court in Boston)

DISTRICT COURTS/BANKRUPTCY COURTS
(District and Bankruptcy Courts in Providence)

– APPEAL PROCESS IN THE RHODE ISLAND COURT SYSTEM –



52

53

– PROCESS of COURT EXPERIENCE for a FELONY –

- Arrested
  - Charged—Not Charged
    - First Court Appearance
      - Released on Bond—Sent to Prison
        - Grand Jury Indictment—No Indictment-Released or Information Charging
          - Arraignment
            - Motions to Drop Charges, etc.
              - Trial
                - Guilty—Not Guilty
                  - Pre-Sentence Information
                    - Sentencing
                      - Appeal

– STEPS in FAMILY COURT EXPERIENCE of a JUVENILE –

- Taken into Custody—Released at Police Station
  - Refered to Family Court
    -Released to Parent or Guardian, or
    -Pre-Hearing Detention and Probation Intake
    - Family Court Hearing
      -Charges Dropped/Case Dismissed, or
      -Released to Custody of Parent, or
      -Detention, or
      -Serious Crime to Adult Court
      - Full Case Hearing Before Family Court Judge (Adjudicatory Hearing)
        - Disposition Hearing
          -Appeal, or
          -Sent to Institution, or
          -Half-way House or Foster Home, or
          -Probation (Parent or Guardian)

56

57

– STEPS in a TRIAL –

- Opening Statement by Plaintiff or Prosecutor
- Opening Statement by Defense
- Direct Examination of Witnesses by Plaintiff or Prosecutor
- Cross Examination of Witnesses by Defense
- Motions (to Dismiss Charges, etc.)
- Direct Examination of Witnesses by Defense
- Cross Examination of Witnesses by Plaintiff
- Closing Statement by Plaintiff
- Closing Statement by Defense
- Rebuttal Argument by Plaintiff
- Jury Instructions
- Jury Deliberations
- Verdict
- Sentencing or Release

– UNIFIED COURT SYSTEM of RHODE ISLAND –

SUPREME COURT:

- Chief Justice
- 4 Associate Justices
- Judgements on Appeals from Other Courts

SUPERIOR COURT:

- Presiding Justice
- 20 Associate Justices
- 1 Master

Criminal:
-Felonies

Civil:
-Over $5,000
-Naturalization
-Habeas Corpus
-Mandamus

Jury Trials

Appeals from District Courts

DISTRICT COURT:

- Chief Justice
- 12 Associate Judges
- 1 Master

Criminal:
-Misdemeanors
-Felony Arraignments

Civil:
-$5,000-10,000
-Small Claims
-Mental Health
-Housing Codes

Appeals:
-Motor Vehicle
-Tax

60

FAMILY COURT:

- Chief Judge
- 10 Associate Justices
- 2 Masters

Juvenile:
-Adoption
-Wayward/Delinquent
-Consent of Adoption
-Termination of Parents Rights

Adult:
-Delinquency of Minor
-Non-Support
-Paternity
-Child Marriage

Domestic Relations:
-Divorce
-Support
-Custody
-Domestic Abuse

OTHER COURTS:

- TAX
- MUNICIPAL
- PROBATE
- HOUSING
- WORKERS COMPENSATION

61

ACTIVITIES TO HELP STUDENTS LEARN ABOUT THE R.I. COURT SYSTEM

HISTORY OF COURTS:

1. Report on statements in U.S. Constitution about the courts.
2. Report on statements in R.I. Constitution regarding the courts.
3. Research reports on T.W. Dorr's role in development and ratification of Rhode Island Constitution of 1842.
4. Plan a trial on religious freedom, include people such as Roger Williams, Anne Hutchinson, and William Coddington.
5. Visit the State House to see Charter of 1663 and Constitution of 1842.
6. Compare Charter of 1663 and Constitution of 1842 regarding law and the courts.
7. Draw your impression of 18th, 19th, and 20th century prison cells.
8. Create a broadside/poster celebrating an event in R.I. judicial history.
9. Make a time line showing history of R.I. courts—add significant events to those in the book.

10. Knowing the history of the law helps us to know what the law is. Should a study of law and the courts be required of all citizens. Why? Why not?
11. "The courts are not perfect and will stop changing only when they are (perfect)." How can courts that are not perfect try people for crimes, when the penalty could be life imprisonment? Discuss.
12. From research, draw or make a model of 18th and/or 19th century courtrooms.

ACTIVITIES TO HELP STUDENTS LEARN ABOUT THE R.I. COURT SYSTEM *(cont.)*

THE JUDGES:

1. Research the topic of JUDICIAL REVIEW and explain the term to the class.

2. Create editorial cartoons on courts, judges, etc.

3. Research and report on outstanding R.I. jurists.

4. Debate: Mediation vs. Court Action.

5. Using one or more of the quotations from R.I. judicial history in the book, discuss aspects of the court system, e.g., Do you think that judges really do not take a person's wealth in to consider ation when they render judgement?

6. Play the role of judge/decision maker in a case involving an unpaid bill.

7. A judge/juror is to come to a decision without bias or prejudice. Is that possible? Discuss. Is Justice really blind?

8. Should the General Assembly and /or the Governor evaluate decisions of the court on important/capital cases? Why? Why not?

9. Should judges be evaluated on how they perform their duties in court? Why? Why not? If yes, who should do the evaluating? If there is such an evaluation should non-judges, non-lawyers be involved in the process?

JUVENILE:

1. Explain the case of Gerald Gault (Arizona v. Gault) as an example of violation of due process for juveniles.

2. Write a report on the development of the Rhode Island Family Court.

3. Debate: It is never acceptable for juveniles to be tried as adults.

4. Do you as a student leave any rights at the door when you enter school? If so, which ones? Why?

5. Does your school have a due process procedure to protect you when you violate the rules? What is it? Could it be improved?

6. Does your school have a mediation program to solve problems between students? If so, explain how it works. If not, do you think such a program would be helpful?

7. Do you think the school should act as your parents when you are in school? Does *in loco parentis* seem reasonable in this age of personal independence?

ACTIVITIES TO HELP STUDENTS LEARN ABOUT THE R.I. COURT SYSTEM *(cont.)*

THE COURTS:

1. Study MARBURY v. MADISON to understand the concept of judicial review.
2. Trace a hypothetical case through the courts.
3. Using newspaper reports and other information track a real case in the court system.
4. Report on a case heard before the R.I. Supreme Court.
5. Write a paper explaining 'reasonable doubt.'
6. Report on an R.I. case(s) which went to the US Supreme Court. For example, the Pawtucket creche case.
7. Find legal/court terms in the newspaper. Report on these and their meanings to the class. Keep a glossary of such terms.
8. Draw an editorial cartoon about the court's handling of a particular case.
9. Should there be a death penalty for murder in Rhode Island? Why? Why not?
10. Create a crossword using court vocabulary.

11. Visit courts—list and discuss your observations. Interview judges, lawyers and other court personnel.
12. Read ELEANOR ELDRIDGE, HER MEMOIRS and ELEANOR'S SECOND BOOK, to learn about a brave black woman and her struggles in the court.
13. Compare the R.I. court system to that of another state or country (ancient or modern).
14. Report on a landmark R.I. case, e.g., TREVETT v. WEEDEN.
15. Define court/legal terms for a game of JEOPARDY.
16. Visit court houses in other cities/states.
17. Try John Brown of Providence Town for slavery using the mock trial method.
18. Visit municipal, district and other courts. Compare and discuss observations.
19. Ryder points out that the citizen should work to make the courts better. Should there be a citizens advisory board for the courts to help the courts to improve? Why? Why not?

ACTIVITIES TO HELP STUDENTS LEARN ABOUT THE R.I. COURT SYSTEM *(cont.)*

COURT PERSONNEL:

1. Draw a court room with placement of the personnel, including the sheriff, court reporter, clerk and other necessary persons.

2. Describe/report on roles of non-judicial personnel in the courts, e.g., clerk, sheriff, translator, stenographer/ court reporter, etc.

3. Lawyers are "officers of the court"—report on what that title means and implies.

4. Have visitors in class: Judges, ACLU person, Bar Association person, ACI guard, CASA volunteer, Victims Rights group, Disciplinary Counsel from Supreme Court, person from Police Training Academy.

5. Interview judges, lawyers, other court personnel.

JURY:

1. Report on the jury selection system in Rhode Island.

2. Should citizenship be required for a person to serve on a jury? Why? Why not?

3. The qualifications for jury service are in the book. What other qualification(s) would you require for someone to be on a jury? Explain your choices.

4. Early jury selection based on English law was that a person's neighbors were specifically chosen to be on that person's jury. Is that a better system than our current one which dismisses a juror who knows the defendant or plaintiff? Explain your reasons.

5. A jury's decision must be unanimous. All members must agree. The Supreme Court decides cases on a consensus/majority basis. Which method is fair? Why?

6. Currently jurors are paid for each day of service. If jury service is the duty of each citizen, should the citizen be paid?

7. The process of *voir dire* allows each lawyer, prosecution and defense, to dismiss several potential jurors for cause. The lawyer does not always have to explain the reasons for not wanting a particular person as a juror. Do you think each lawyer should have to explain why a juror is dismissed?

8. The process of *voir dire* takes a great deal of time in a trial. Sometimes the process lasts for days. In order to speed up trials and reduce taxpayer costs, should the process be eliminated and have each lawyer accept the juror as seated? Explain your reasons.

9. In several types of trials small numbers of jurors are used, e.g., six jurors rather than twelve. Should all trials use fewer jurors to reduce costs for the taxpayer?

10. In some trials judges decide a person's guilt or innocence. The judge acts in place of a jury. In order to reduce court costs and speed up the trial process, should the judges replace juries in every trial? Why? Why not?

ACTIVITIES TO HELP STUDENTS LEARN ABOUT THE R.I. COURT SYSTEM *(cont.)*

RIGHTS:

1. What additions would you make to the rights of victims? Of accused? Of the guilty? Which rights would you take from each?

2. Compare victims/defendants rights to those for citizens in the R.I. Constitution. Report on your findings.

3. Compare rights of defendants to those in the Bill of Rights. Report on your findings.

4. In cases of rape the name of the accused rapist may be printed in the newspaper or read on the television. The name of the person who claims to have been raped is kept secret. Is this procedure a violation of the rights of the person accused of the crime? Why? Why not? Explain your reasons.

5. The system of checks and balances among the three branches of government is meant to protect the rights of all citizens. Do you believe that it does? Explain your reasons.

6. In most documents in our country's history a person accused of a crime has the right to face the accuser. In cases regarding children the defendant many times must listen to the children talking on videotape. The defendant may not question them. Is this process a violation of the defendant's rights?

GENERAL:

1. Create a word search of court terms.

2. Create a word search of legal terms.

3. Report on the reasons why capital punishment was stopped in R.I.

4. List and discuss alternatives to going to court/prison.

5. Research and explain to your class the process for your going to Small Claims Court to have money returned on a product you bought that was defective.

6. Examine forms that come in mail order catalogs to determine where problems might be for your as the buyer.

7. Consumer laws have taken away the old phrase of *caveat emptor* for many products and services. Do you think that consumer laws protect you when you buy something new?

8. If a defendant has the right of free speech in a trial, should the defendant be allowed to say anything he wants to the judge? Should the defendant be allowed to yell at the judge? Should he be allowed to used vulgar language or obscenities when addressing the court?

ACTIVITIES TO HELP STUDENTS LEARN ABOUT THE R.I. COURT SYSTEM

GENERAL (cont.):

9. If a defendant disrupts the court by yelling and jumping out of his chair, does a judge have the right to have him tied into a chair and have a gag put into his mouth? Why? Why not? Would this tying and gagging be a violation of the defendant's right of free speech?

10. If you feel that the Internal Revenue Service has charged you too much in taxes or that they have not allowed you a reason able deduction, to which court could you appeal the case?

11. Why is truth called "a silver thread"?

12. A juror should leave a trial with "citizenship unscathed and a clear conscience". Explain this phrase to the class.

13. Do you have rights as a student? What are they?

14. Do you have responsibilities as a student? What are they?

15. Courts are always trying to be consistent in terms of sentencing, etc. How can a court system that is not totally consistent try persons for serious crimes? Explain your thoughts.

16. If a person cannot afford a lawyer one will be appointed for that person. The lawyer appointed would be a Public Defender. Is the defendant receiving the best possible legal assistance with a Public Defender rather than a lawyer the person chooses? Does this process truly help the poor person who cannot afford to hire a personal lawyer? Why? Why not?

17. Plea bargaining allows the accused to receive a lesser sentence, if the person pleads guilty? Is this process fair to the accused? To the victim? To other citizens of the community?

18. Read the newspapers to determine if there are bills in the General Assembly concerning the courts. Report on such bills to the class.

19. From your reading do you believe that the court system attempts to give each person due process/fair treatment? Are there procedures/processes that could make the system more fair? Explain.

20. A person who commits a felony and is sentenced to more than a year in prison loses citizenship rights. These may be returned only by petition to the governor of the state. Is this fair to the accused or is it a double punishment? Explain your reasons.

ACTIVITIES TO HELP STUDENTS LEARN ABOUT THE R.I. COURT SYSTEM *(cont.)*

GENERAL (cont.):

21. A juror reads about a crime in the newspaper, hears about it on the radio and television. Do you believe that this person can render a fair judgement about the accused? Why? Why not?

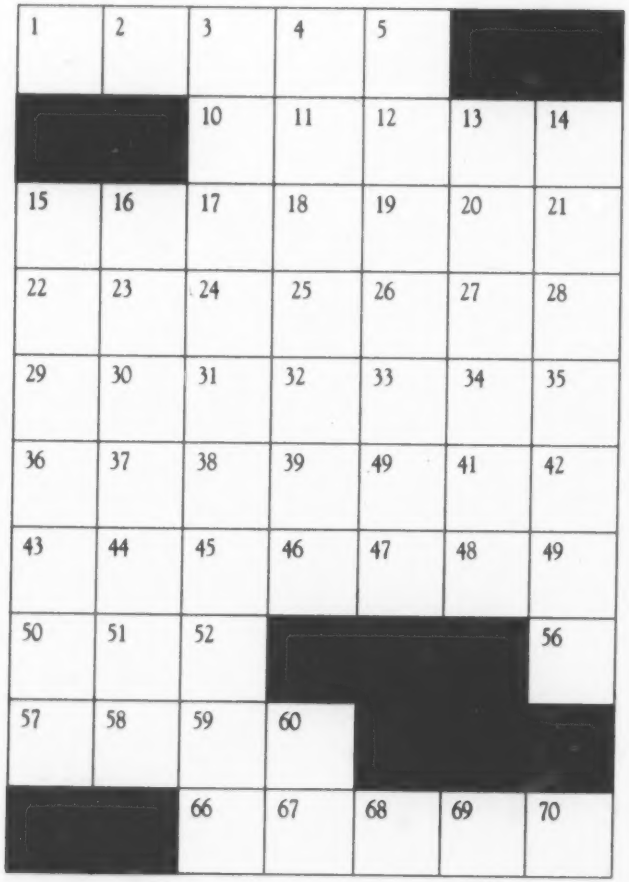
22. A young girl runs away from home frequently. As the judge in Family Court what would you do to try to help the girl and her family? Would you consider the Girls Training School as a possible place to put her to stop her running away? Explain.

23. The number of cases, both civil and criminal, have increased tremendously during the past ten years. In order to reduce the work load of the court, should certain cases, civil and criminal, not be taken into the courts? For example, should cases such as vandalism, spray painting, certain traffic violations, underage drinking, disputes over property, etc. not be taken into the court system? If not, how could such problems be decided? Explain.

24. Should judges be "tougher" when deciding on sentences for certain crimes? Which crimes do you feel should be dealt with more harshly? Why? If a judge becomes 'tougher', does not hurt the consistency which courts are seeking? Should citizenship be required for a person to serve on a jury? Why? Why not?

25. Originally the figure of Justice did not wear a blind fold; she was to see all people equally and judge them based on what she heard and saw. Later the blindfold was put on because people believed that Justice was BEING manipulated and was not making fair decisions. By having Justice blindfolded they felt that Justice would not be influenced by a person's color, dress, wealth or poverty. Do you think that Justice should not see a person's color or amount of wealth? Should these conditions have an effect on the verdict given to a person who is before the court?

– Crossword Puzzle of Legal/Court Terms –



ACROSS:

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10. Place of trials
15. Title for attorney
22. Asking higher court for judgement
30. CAVEAT _____
37. "Find the silver thread of....."
45. One who decides on case
57. "To see...to say"
66. One who has hearing in family court

DOWN:

7. An officer of the court
15. Rules which govern all courts
23. Little jury
36. For the good
45. Citizens who decide guilt or innocence

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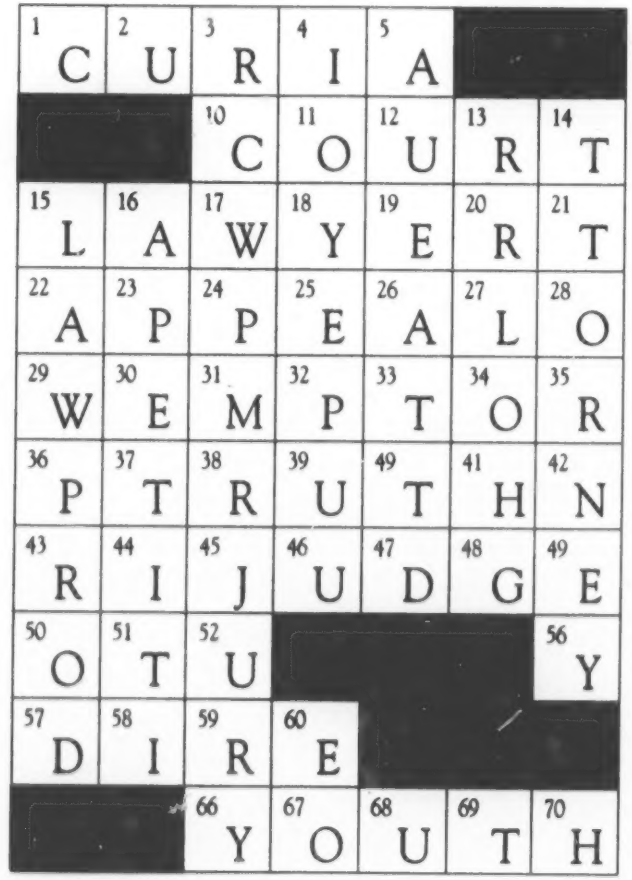

SUGGESTED ADDITIONAL RESOURCE MATERIAL

Lessons on the Northwest Ordinance, John Patrick, University of Indiana Press, 1989

Lessons on the Constitution, John Patrick, University of Indiana Press, 1987

Rhode Island: A History, William McLoughlin, Brown University, 1975

First in War...Last in Peace, Patrick Conley, RI Committee on the Humanities, 1988

A History of Rhode Island Judiciary, Edmund Flynn, Rhode Island Digest, 1952

Street Law: A Course in Practical Law, Arbetman, McMahon and O'Brien, West Publishing, New York, Rev., 1990